

Calendar No. 294

97TH CONGRESS
1ST SESSION

H. R. 4

IN THE SENATE OF THE UNITED STATES

OCTOBER 6 (legislative day, SEPTEMBER 9), 1981

Received; placed on the calendar

AN ACT

To amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Intelligence Identities
4 Protection Act".

5 SEC. 2. (a) The National Security Act of 1947 is
6 amended by adding at the end thereof the following new title:

1 "TITLE VI—PROTECTION OF CERTAIN NATIONAL
2 SECURITY INFORMATION

3 "DISCLOSURE OF IDENTITIES OF CERTAIN UNITED STATES
4 UNDERCOVER INTELLIGENCE OFFICERS, AGENTS, IN-
5 FORMANTS, AND SOURCES

6 "Sec. 601. (a) Whoever, having or having had author-
7 ized access to classified information that identifies a covert
8 agent, intentionally discloses any information identifying such
9 covert agent to any individual not authorized to receive clas-
10 sified information, knowing that the information disclosed so
11 identifies such covert agent and that the United States is
12 taking affirmative measures to conceal such covert agent's
13 intelligence relationship to the United States, shall be fined
14 not more than \$50,000 or imprisoned not more than ten
15 years, or both.

16 "(b) Whoever, as a result of having authorized access to
17 classified information, learns the identity of a covert agent
18 and intentionally discloses any information identifying such
19 covert agent to any individual not authorized to receive clas-
20 sified information, knowing that the information disclosed so
21 identifies such covert agent and that the United States is
22 taking affirmative measures to conceal such covert agent's
23 intelligence relationship to the United States, shall be fined
24 not more than \$25,000 or imprisoned not more than five
25 years, or both.

1 "(c) Whoever, in the course of a pattern of activities
2 intended to identify and expose covert agents and with
3 reason to believe that such activities would impair or impede
4 the foreign intelligence activities of the United States, dis-
5 closes any information that identifies an individual as a
6 covert agent to any individual not authorized to receive clas-
7 sified information, knowing that the information disclosed so
8 identifies such individual and that the United States is taking
9 affirmative measures to conceal such individual's classified
10 intelligence relationship to the United States, shall be fined
11 not more than \$15,000 or imprisoned not more than three
12 years, or both.

13 "DEFENSES AND EXCEPTIONS

14 "SEC. 602. (a) It is a defense to a prosecution under
15 section 601 that before the commission of the offense with
16 which the defendant is charged, the United States had public-
17 ly acknowledged or revealed the intelligence relationship to
18 the United States of the individual the disclosure of whose
19 intelligence relationship to the United States is the basis for
20 the prosecution.

21 "(b)(1) Subject to paragraph (2), no person other than a
22 person committing an offense under section 601 shall be sub-
23 ject to prosecution under such section by virtue of section 2
24 or 4 of title 18, United States Code, or shall be subject to

1 prosecution for conspiracy to commit an offense under such
2 section.

3 “(2) Paragraph (1) shall not apply (A) in the case of a
4 person who acted in the course of an effort to identify and
5 expose covert agents with the intent to impair or impede the
6 foreign intelligence activities of the United States by the fact
7 of such identification and exposure, or (B) in the case of a
8 person who has authorized access to classified information.

9 “(c) It shall not be an offense under section 601 to
10 transmit information described in such section directly to the
11 Select Committee on Intelligence of the Senate or to the Per-
12 manent Select Committee on Intelligence of the House of
13 Representatives.

14 **“PROCEDURES FOR ESTABLISHING COVER FOR**
15 **INTELLIGENCE OFFICERS AND EMPLOYEES**

16 “SEC. 603. (a) The President shall establish procedures
17 to ensure that any individual who is an officer or employee of
18 an intelligence agency, or a member of the Armed Forces
19 assigned to duty with an intelligence agency, whose identity
20 as such an officer, employee, or member is classified informa-
21 tion and which the United States takes affirmative measures
22 to conceal is afforded all appropriate assistance to ensure that
23 the identity of such individual as such an officer, employee,
24 or member is effectively concealed. Such procedures shall
25 provide that any department or agency designated by the

1 President for the purposes of this section shall provide such
2 assistance as may be determined by the President to be nec-
3 essary in order to establish and effectively maintain the se-
4 crecy of the identity of such individual as such an officer,
5 employee, or member.

6 "(b) Procedures established by the President pursuant to
7 subsection (a) shall be exempt from any requirement for pub-
8 lication or disclosure.

9 "EXTRATERRITORIAL JURISDICTION

10 "SEC. 604. There is jurisdiction over an offense under
11 section 601 committed outside the United States if the indi-
12 vidual committing the offense is a citizen of the United States
13 or an alien lawfully admitted to the United States for perma-
14 nent residence (as defined in section 101(a)(20) of the Immi-
15 gration and Nationality Act).

16 "PROVIDING INFORMATION TO CONGRESS

17 "SEC. 605. Nothing in this title shall be construed as
18 authority to withhold information from Congress or from a
19 committee of either House of Congress.

20 "DEFINITIONS

21 "SEC. 606. For the purposes of this title:

22 "(1) The term 'classified information' means infor-
23 mation or material designated and clearly marked or
24 clearly represented, pursuant to the provisions of a
25 statute or Executive order (or a regulation or order

1 issued pursuant to a statute or Executive order), as re-
2 quiring a specific degree of protection against unau-
3 thorized disclosure for reasons of national security.

4 “(2) The term ‘authorized’, when used with re-
5 spect to access to classified information, means having
6 authority, right, or permission pursuant to the provi-
7 sions of a statute, Executive order, directive of the
8 head of any department or agency engaged in foreign
9 intelligence or counterintelligence activities, order of a
10 United States court, or provisions of any Rule of the
11 House of Representatives or resolution of the Senate
12 which assigns responsibility within the respective
13 House of Congress for the oversight of intelligence
14 activities.

15 “(3) The term ‘disclose’ means to communicate,
16 provide, impart, transmit, transfer, convey, publish, or
17 otherwise make available.

18 “(4) The term ‘covert agent’ means—

19 “(A) a present or former officer or employee
20 of an intelligence agency, or a present or former
21 member of the Armed Forces who is or was as-
22 signed to duty with an intelligence agency—

23 “(i) whose past or present identity as
24 such an officer, employee, or member is clas-
25 sified information, and

1 “(ii) who is serving outside the United
2 States or has within the last five years
3 served outside the United States;

4 “(B) a United States citizen whose past or
5 present intelligence relationship to the United
6 States is classified information and—

7 “(i) who resides and acts outside the
8 United States (or who resided and acted out-
9 side the United States) as an agent of, or in-
10 formant or source of operational assistance
11 to, an intelligence agency, or

12 “(ii) who at the time of the disclosure is
13 or was at any time acting as an agent of, or
14 informant to, the foreign counterintelligence
15 or foreign counterterrorism components of
16 the Federal Bureau of Investigation; or

17 “(C) an individual, other than a United
18 States citizen, whose past or present intelligence
19 relationship to the United States is classified and
20 who is a present or former agent of, or a present
21 or former informant or source of operational as-
22 sistance to, an intelligence agency.

23 “(5) The term ‘intelligence agency’ means the
24 Central Intelligence Agency, the foreign intelligence
25 components of the Department of Defense, or the for-

1 eign counterintelligence or foreign counterterrorist
2 components of the Federal Bureau of Investigation.

3 “(6) The term ‘informant’ means any individual
4 who furnishes information to an intelligence agency in
5 the course of a confidential relationship protecting the
6 identity of such individual from public disclosure.

7 “(7) The terms ‘officer’ and ‘employee’ have the
8 meanings given such terms by sections 2104 and 2105,
9 respectively, of title 5, United States Code.

10 “(8) The term ‘Armed Forces’ means the Army,
11 Navy, Air Force, Marine Corps, and Coast Guard.

12 “(9) The term ‘United States’, when used in a ge-
13 ographic sense, means all areas under the territorial
14 sovereignty of the United States and the Trust Terri-
15 tory of the Pacific Islands.”.

16 (b) The table of contents at the beginning of such Act is
17 amended by adding at the end thereof the following:

**"TITLE VI—PROTECTION OF CERTAIN NATIONAL SECURITY
INFORMATION**

- "Sec. 601. Disclosure of identities of certain United States undercover intelligence officers, agents, informants, and sources.
- "Sec. 602. Defenses and exceptions.
- "Sec. 603. Procedures for establishing cover for intelligence officers and employees.
- "Sec. 604. Extraterritorial jurisdiction.
- "Sec. 605. Providing information to Congress.
- "Sec. 606. Definitions.".

Passed the House of Representatives September 23,
1981.

Attest: **EDMUND L. HENSHAW, JR.,**
Clerk.

By **W. RAYMOND COLLEY,**
Deputy Clerk.

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